



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable Sidney M. Lister, M. D.  
Chairman, Texas Prison Board  
Second National Bank Building  
Houston, Texas

Dear Sir:

Opinion No. 0-4964

Re: Authority of the Texas  
Prison Board to grant  
permission for geophy-  
sical work on prison  
property, and related  
questions.

We are in receipt of your letter of recent date wherein you request the opinion of this department on the question above stated. We quote the body of your letter in full as follows:

"I am quoting below a request that came to the Texas Prison Board for geophysical work on a part of one of the State prison farms:

"My client is desirous of doing certain geophysical work on a part of the Ramsey Prison farm in Brazoria County. It is estimated that we would like to have a permit to do this work on about 8,000 acres and pay you the sum of \$1.00 per acre."

"It was my suggestion, therefore, that you authorize the Chairman of your Board or a subcommittee to execute the permit mentioned, above on the terms which we discussed this morning, either jointly or severally according to the advice of the Attorney General."

Hon. Sidney M. Lister - Page 2

"Please give us a ruling as to whether the Prison Board has authority to grant permission to do geophysics work on prison property, and if so, into which funds shall we deposit the money received from this permit."

The Texas Prison Board is an agency of the State, created by the Legislature, which has reposed in it the duty of properly caring for prisoners incarcerated within the State penitentiaries. See 37 Tex. Jur. 65. To the end that the Texas Prison Board may properly perform its functions, the Legislature has vested in it extensive powers over the inmates of the Texas prisons and over the physical properties composing the Texas Prison System. See Articles 6166-6166x10.

Within the scope of the Prison Board's functions, these powers are plenary and are liberally construed to effectuate the purposes which the Prison Board serves. However, the power and authority of the Prison Board over prison property is not absolute. Its power and authority over prison property, of necessity, are limited and do not extend, either expressly or by implication, beyond the functions which the Prison Board serves. 34 Tex. Jur. 444, and cases cited.

In the absence of specific statutory authority, the Prison Board cannot dispose of prison property by sale or lease, or otherwise. *Crouch v. Posey* (Civ. App., Dallas, 1902) 59 S. W. 1001; 37 Tex. Jur. 950, Sec. 81.

Article 6166o, Vernon's Ann. Statutes, empowers the Prison Board to lease any of the real estate belonging to the Texas Prison System for "agricultural or grazing purposes." Specification of these particular purposes by the Legislature effectively circumscribes the Prison Board's authority to lease. Statutes which prescribe and limit the exercise of official duty are strictly construed in respect to the powers conferred and the manner of their exercise, and such powers will not be enlarged by construction. *Bryan v. Sundberg*, 5 Tex. 418; 34 Tex. Jur. 443.

That the Legislature intended that the Prison Board's authority to lease prison lands be limited to the purposes set out is illustrated by the fact that the Legislature has set up an entirely different procedure for the leasing of prison lands for oil and gas. See Acts 1930, 41st. Leg. 4th. Called Session, p. 16, Ch. 13, Article 6203a, Vernon's Annotated Statutes.

Hon. Sidney M. Lister - Page 3

The authority of the Prison Board to grant licenses is likewise subject to certain limitations. As stated in our opinion No. 0-4509, the authority and power of the Prison Board to grant a license where such license is reasonably necessary to the performance of some duty imposed upon the Board is hardly subject to question.

We further stated in that opinion the limitations upon the authority of the Prison Board to grant licenses. We quote from that opinion as follows:

"Of course, the Prison Board does not have the power or authority to grant licenses indiscriminately. This power, we believe, is restricted in the sense that it can be exercised only in the furtherance of some objective necessary to the proper performance of duties imposed upon the Board."

We can conceive of no function of the Texas Prison Board which will be served by the granting of a license for seismographic inspection of Texas Prison land, and in the absence of specific authority by the Legislature, we are impelled to the conclusion that the Texas Prison Board does not have authority to grant such license.

Our answer to your first question makes unnecessary a discussion of your other inquiry.

Trusting that we have fully answered your inquiry,  
we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

*Peter Maniscalco*  
BY Peter Maniscalco  
Assistant

PM:BT

APPROVED JAN 13, 1943

*Gerald B. Nann*

ATTORNEY GENERAL OF TEXAS



OK.  
C.C.P.